



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 15, 1995

Ms. Sandra C. Joseph
Open Records Counsel/Disclosure Officer
Office of the Comptroller of Public Accounts
LBJ State Office Building
111 East 17th Street
Austin, Texas 78774

OR95-1238

Dear Ms. Joseph:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. That request was assigned ID# 36604.

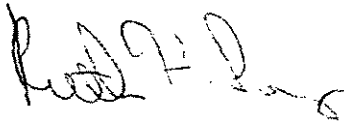
The Comptroller of Public Accounts (the "comptroller") received a request for copies of the final 1994 property value study summary worksheets ("worksheets") for the Santa Fe, Nederland, and Bowie Independent School Districts. You have released the worksheets for the Nederland and Bowie Independent School Districts. However, you contend that the Santa Fe worksheet is excepted from disclosure under section 552.103(a).

To show the applicability of section 552.103(a), a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. You have submitted to this office a petition in a pending lawsuit that shows the Santa Fe Independent School District is one of several school districts suing the comptroller over their 1994 property value studies. You also submitted the worksheet at issue to this office for review. We agree that the information at issue is related to the pending litigation and that section 552.103(a) is applicable.

However, in reaching this conclusion we assume that the opposing parties to the litigation have not previously had access to the records at issue. Absent special circumstances, once information has been obtained by all parties to the litigation, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision No. 349 (1982) at 2. If the opposing parties in the anticipated litigation have seen or had access to the worksheet, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). The applicability of section 552.103(a) also ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982) at 3. We note that since the section 552.103(a) exception is discretionary with the governmental entity asserting the exception, the comptroller has the discretion to release the worksheet to the requestor. Gov't Code § 552.007; Open Records Decision No. 542 (1990) at 4.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/rho

Ref.: ID# 36604

Enclosure: Submitted document

cc: Ms. Kathy Day
Assistant Director, Property Value Study Appeals Division
Calame, Linebarger, Graham & Pena, L.L.P.
P.O. Box 17428
Austin, Texas 78760
(w/o enclosure)